IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

CRL.A.No. 1727 of 2005(B)

AGAINST THE ORDER IN CRLP.561/2005
CC.316/2004 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

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APPELLANT: COMPLAINANT:

ACORN PRINTWELL PVT.LTD.,
RASHTRA DEEPIKA BUILDING, PALARIVATTOM,
KOCHI-25, REPRESENTED BY ITS MANAGER
K.C. THOMAS.

BY ADV. SRI.JOMY GEORGE

RESPONDENTS: ACCUSED & STATE:

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1. K. RAMESH KUMAR, SATHYA PHARMA, NO.32,
FOURTH CROSS, NARAYANA NAGAR,
SELAM-15.

2. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY ADV. SRI.ANIL XAVIER
SRI.N.MANOJ KUMAR
PUBLIC PROSECUTOR, SRI THOMAS JOHN AMBOOKEN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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Crl.A No. 1727 of 2005 (B)

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Dated this the 1st day of March, 2007

J U D G M E N T

A defeated complainant is before this Court, with an appeal, on obtaining leave, challenging the dismissal of the complaint, preferred under Section 138 of the Negotiable Instruments Act and the acquittal of the accused, thereon, in C.C.No.316/2004, on the file of Additional Chief Judicial Magistrate Court, (Economic Offence), Ernakulam. The learned Magistrate noted that there was absence of the complainant and there was no representation from the counsel.

2. The learned counsel for the appellant submits that only on that posting date, there was no appearance from the part of the complainant as well as the counsel. The reason stated by the counsel for the appellant is that the date of posting was noted wrongly.

3. In order to avoid a loss to the complainant because of the wrong action or wrong noting of the posting date by the advocate, I set aside the impugned order dated

06/08/2005, and, restore C.C.No.316/2004 to the file of Additional Chief Judicial Magistrate Court (E.O), Ernakulam.

4. I direct the parties to appear before the Additional Chief Judicial Magistrate Court (E.O), Ernakulam on 02/04/2007. The learned Magistrate shall dispose of the matter at the earliest, and in any case, within three months from the date of appearance of the parties.

The appeal is allowed as above.

(J.M.JAMES)
Judge

ms

J.M.JAMES, J.

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Crl.A No. 1727 of 2005 (B)

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J U D G M E N T

1st March, 2007